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**MEMO ENDORSED**

February 7, 2017

Via CM-ECF

Honorable Valerie E. Caproni  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

USDC SDNY  
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Re: *United States v. Joseph Percoco, et al.*, No. 16-CR-776 (VEC) (S.D.N.Y.)

Dear Judge Caproni:

We are counsel for Defendant Louis Ciminelli. This letter is submitted on behalf of Mr. Ciminelli, Defendant Michael Laipple (represented by Herbert L. Greenman), and Defendant Kevin Schuler (represented by Terrence M. Connors and James W. Grable, Jr.).

On February 7, 2017, Mr. Ciminelli, Mr. Laipple and Mr. Schuler filed a joint motion for an order dismissing the charges against them for the Indictment's failure to sufficiently allege venue, and/or, in the alternative, transferring the charges against them to the United States District Court for the Western District of New York at Buffalo (the "Joint Motion").

One of the documents supporting the Joint Motion is the Sealed Declaration of Daniel C. Oliverio, dated February 6, 2017 ("Sealed Decl."). The Sealed Decl. has not yet been filed. Another of the documents supporting the Joint Motion is the Declaration of Herbert L. Greenman, dated February 7, 2017 ("Greenman Decl."), which was filed today with partial redactions. Another of the documents supporting the Joint Motion is the Declaration of Terrence M. Connors, dated February 7, 2017 ("Connors Decl."), which was filed today with partial redactions.

Consistent with the Court's CM-ECF and sealing procedures, we respectfully move the Court for an order directing that the Sealed Declaration, the unredacted Greenman Decl., and the unredacted Connors Decl. be filed under seal, not to be publicly available. We also ask the Court to order that the unredacted copy of this letter be sealed. All three requests are made pursuant to a single letter motion for the convenience of the Court in considering the requests. The reasons supporting our requests follow.

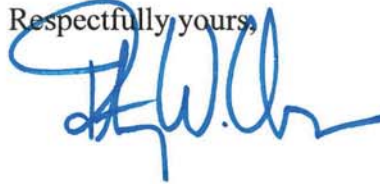


Shortly before filing this letter motion, I alerted Assistant United States Attorney Echenberg that we would be filing it, and I sought her consent to the relief requested. I then filed this letter motion, so that I can provide the documents at issue to the government in their entirety. Given this timing, we have not yet received the government's position or consent.

We are transmitting an unredacted copy of this letter, along with a copy of the Sealed Decl., an unredacted copy of the Greenman Decl. and an unredacted copy of the Connors Decl., to Your Honor's Chambers, via electronic mail.

If you have any questions, please contact me at (716) 848-1271.

Respectfully yours,



Timothy W. Hoover

TWH/dcb

cc: All counsel of record (*via CM-ECF*)

Janis Echenberg, Esq. (*via electronic mail*, w/unredacted copy of letter, copy of the Sealed Decl., copy of the unredacted Greenman Decl., and copy of the unredacted Connors Decl.)

WHEREAS the Buffalo Defendants agree to more limited redactions of the Greenman Declaration, and the Government agrees to the Buffalo Defendants' redactions of the Connors Declaration;

WHEREAS the parties dispute the sealing of the Oliverio Declaration;

WHEREAS the Court has reviewed the proposed redactions;

IT IS HEREBY ORDERED that the Oliverio Declaration will be filed UNDER SEAL. The Buffalo Defendants must submit revised redactions to the Greenman Declaration. The Court APPROVES the redactions to the Connors Declaration. The Court may reverse its decision to seal at the time that the Court decides the Buffalo Defendants' motion to dismiss, and/or, in the alternative, to transfer.

IT IS FURTHER ORDERED that the Buffalo Defendants must show cause why the paragraph redactions in this letter are appropriate in light of the presumption of access discussed in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006), when it appears to the Court that portions of the redacted paragraphs do not reflect sensitive information.

IT IS FURTHER ORDERED that revised redactions and proposed redactions to the Buffalo Defendants' and Government's letter briefing on this sealing issue must be submitted on or before February 21, 2017.

SO ORDERED.



HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE  
2/16/2017